



# Memorandum

To: Panel Members

Date: January 23, 2009

From: Brian McMahon,  
Executive Director

File: Panel Memo

Subject: TRAINING AGENCY CERTIFICATION

Staff recommends the adoption of interim guidelines as set forth in this memorandum to be used by ETP staff in determining contractor eligibility for Training Agencies, given that the final authority for certificates issued by the former Bureau of Private Postsecondary Vocational Education (BPPVE) lapsed on January 1, 2009.

These guidelines will assist staff in making eligibility determinations pending two outcomes: 1) the Legislature creates a successor to BPPVE, and 2) the Panel adopts standards similar to these guidelines in a regulation. These outcomes are not mutually exclusive, and the Panel need not delay rulemaking until such time as a successor to BPPVE is created in legislation.

Once staff has had sufficient experience working with these guidelines, they will be modified as necessary and presented to the Panel in the form of a proposed amendment to Title 22, California Code of Regulations (CCR) Section 4426. (The current requirement for BPPVE certification at Section 4426(a) is inoperative.) Also, the definition of "training agency" at Title 22 CCR Section 4400(z) may be considered for amendment.

## Background

For years, BPPVE was the regulatory body over private postsecondary schools (Training Agencies). Its statutory standards were designed to protect students from low quality or unstable Training Agencies. (Former Education Code Sections 95700-94999, enacted in 1989 and repealed by operation of law effective July 1, 2007.)

By these standards, BPPVE was required to review business formation documents, financial statements, instructor qualifications, curriculum offerings, training completion and placement data, and other indicators of stability and competency as a basis for certification. BPPVE also had a secondary program to "register" short-term seminars.

The Panel is not authorized to issue its own certifications or to fund the cost of certification. However, in determining the eligibility of Training Agencies the Panel is guided by statutory and regulatory standards independent of BPPVE:

Statute. Unemployment Insurance Code (UI) Section 10210 requires a “satisfactory record of past performance in the placement and retention of former trainees and employer satisfaction with former trainees.”

This same statute requires proof of “labor market demand for the proposed training” and “accounting systems . . . [with] controls adequate to check the accuracy and reliability of accounting data, promote operating efficiency and ensure compliance with . . . generally accepted accounting principles.”

Regulation. Title 22 CCR Section 4400(z) defines “training agency” to mean an entity “that has been in existence for a minimum of two years preceding the application . . . and has an established history of providing training and placement services to the public.”

These guidelines are designed to satisfy UI Code Section 10210 and Title 22 CCR Section 4400(z). They are also designed to be consistent, to the extent possible, with the statutory standards that governed the former BPPVE.

### Three Stages

These interim guidelines will be implemented at three stages in the ETP funding process: 1) Eligibility Determination, 2) Development, and 3) Monitoring.

At the first stage, when the application for funding is submitted, staff will determine if the Training Agency has a currently valid certification from a recognized third-party entity. Once a Training Agency is approved for ETP funding, that certification will be recognized by ETP throughout the term of contract, regardless of whether a successor to BPPVE is created in the interim.

At the second stage, when the proposal is being developed, staff will ensure that the certification extends to all courses in the proposed Curriculum. At the third stage, as a function of monitoring, staff will ensure that the certification is maintained as current; and that it extends to any additional courses proposed for the Curriculum during the term of contract.

### New and Repeat Contractors

These interim guidelines will be applied case-by-case, but with different factors for New and Repeat Contractors. (As used in these guidelines, “review” and “evaluation” are interchangeable with “certification.”) For New Contractors, ETP will recognize four certification entities, as listed below:

- Western Association of Schools and Colleges (WASC)
- Department of Education (DOE)
- Division of Apprenticeship Standards (DAS)
- South Bay Workforce Investment Board (WIB)

The first two entities certify public post-secondary schools such as community college districts and high school districts. The third entity certifies apprenticeship programs such as may be offered by a Joint Apprenticeship Training Council. These three entities are not discussed further in this memorandum.

The fourth entity reviews a variety of training vendors, including private post-secondary schools, for the purpose of receiving federal funds under the Workforce Investment Act (WIA). This is through an evaluation and data distribution system known as the Intrastate Training Resources and Information Network (I-TRAIN).

For Repeat Contractors, ETP will recognize the same four entities named above, but will also consider past performance on a case-by-case. For example:

- Number of prior contracts
- Number and type of trainees
- Proximity of time periods
- Amount of funds approved and earned
- Method of training delivery and Curriculum

### I-TRAIN

ETP staff finds the I-TRAIN review process detailed and multi-faceted. In particular, there are mandatory on-site visits by representatives of the South Bay WIB with an industry expert. This review extends to instructor credentials and curriculum content. Also, once a Training Agency is approved, training is monitored on a regular basis and outcomes are collected in a database.

The scope of this review is outlined below, as pertinent to funding by ETP (see also Summary of I-TRAIN Documents, attached):

- Training Agency has at least two years doing business in California
- Training Agency is in good standing with government agencies (SOS registration; IRS, FTB and EDD tax collection)
- Sufficient administrative systems are in place to support training delivery
- Facility is adequate for class/lab size and meets ADA standards
- Instructors are credentialed or otherwise qualified to deliver training
- Books, tools and equipment are up-to-date and in good repair
- There is proof of effective delivery of proposed training programs (completion rate; retention and placement data)

Other aspects of this review will qualify a Training Agency for federal funds, but are not essential to ETP (e.g., the trainee wages meet WIA standards; the courses are commercially available; the WIA “default rate” is below 25%).

Overall, staff finds that the I-TRAIN review process used by South Bay WIB is more detailed than processes used by the majority of other Workforce Investment Boards. Also, the value I-TRAIN approval goes beyond eligibility for funding, since it brings the Training Agency into a statewide referral and networking system.

I-TRAIN is widely recognized throughout Southern California. ETP records show that 27 of the 57 Training Agencies with active ETP Agreements were reviewed and approved under I-TRAIN. As such, they are listed in a Regional Training Vendor Directory (RTVD) which is easily accessible online at [www.i-train.org](http://www.i-train.org).

At the present time, I-TRAIN is only active in certain regions of Southern California. The following counties are covered: San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Orange, San Bernardino, Riverside, Imperial and San Diego.

South Bay WIB is prepared to activate I-TRAIN in other counties, including the Inland Empire and all of Northern California. However, the cost of review must be borne by the Training Agency, payable directly to South Bay WIB (City of Hawthorne). This cost will be significantly lower than the certification fees that had been charged by the former BPPVE.

ETP staff has been in discussions with South Bay WIB to establish a flat fee and a time frame for the I-TRAIN review process, for Training Agencies that are located outside the covered counties. The fee will be substantially lower than what had been charged by BPPVE for first-time applicants. The time frame will be approximately two to five weeks from the date a request for review is submitted to South Bay WIB. The initial evaluation is valid for two years, with a lesser cost for renewal thereafter.

Even though staff recommends that the I-TRAIN review process be deemed sufficient for purposes of ETP funding, staff will consider evaluations or certifications by other third-party entities at the first stage of the funding process (eligibility determination). This consideration will be on a case-by-case basis and will include records of financial stability, training delivery, and trainee placement or retention.

### Recommendation

For the reasons set forth above, staff recommends that the Panel adopt these interim guidelines beginning with pre-applications submitted after January 1, 2009. In addition, staff recommends, the Panel should direct it to continue working with South Bay WIB and take other steps as may be necessary for implementation of these guidelines; and, bring these guidelines back for further discussion in the event a successor to BPPVE is created in legislation.

## **Summary of I-TRAIN Documents**

The following list is by way of example of the type of documents that are typically required to be submitted with the I-TRAIN application:

### A. Licensing

- State or federal certification entity as applicable
- Proposed Curriculum
- Director and Associate Director qualifications and resume
- Instructor qualifications and resume
- Documentation to support the training vendor designation

### B. Legal Status

- Articles of Incorporation as registered with State of California
- By-laws of Corporation
- Fictitious Name Statement, if applicable
- General/Partnership agreement, if applicable
- Business License for each location
- Federal Student Loan Default rate
- Program Orientation packet
- Grievance procedures
- Vendor policies
- Annual Report

### C. Other Documents and Exhibits

- Catalog with tuition pricing
- Program outline
- Enrollment/performance matrix
- List of required student books or other items with cost for each program
- Audited Financial Report with letter of confirmation from accountant
- Organization chart and position descriptions
- Insurance certificates and endorsements (casualty/liability of at least \$1 million)
- Proof of Workers' Compensation Insurance coverage